IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 153 of 2005

ABDUL REHMAN
V/S
ABDUL KAREEM

Mr. OP JOSHI, for the appellant / petitioner

Date of Order : 7.2.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

In a suit for specific performance of the contract, the plaintiff prayed for temporary injunction seeking to restrain the defendant from alienating the property during pendency of the suit.

It is a different story that the learned trial Court has negatived the prayer by referring to a receipt said to have been executed by the plaintiff canceling the agreement, and also the fact, that in the suit, the plaintiff had made alternative prayer for payment of compensation, in my view, even without going into the correctness of these findings, suffice it to say that even if during pendency of the suit, the defendant alienates the property, the transaction would be hit by Section 52 of the Transfer of Property Act, and the purchaser, and the alienee would be bound by the consequences of the suit.

In that view of the matter, I am not inclined to interfere with the impugned order. The appeal is, therefore, dismissed summarily. The trial Court is directed to expeditiously decide the main suit itself. It is made clear that the findings recorded by the learned trial Court while deciding application for temporary injunction shall not be taken into account while deciding the main suit.

(N P GUPTA),J.

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